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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,680	02/18/2004	Patrick Ladd	TWAR.005A	5211
7590 GAZDZINSKI & ASSOCIATES Suite 375 11440 West Bernardo Court San Diego, CA 92127			EXAMINER PHAN, TUANKHANH D	
			ART UNIT 2163	PAPER NUMBER
			MAIL DATE 09/04/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/782,680

Applicant(s)

LADD ET AL.

Examiner

TUAN-KHANH PHAN

Art Unit

2163

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-24 and 34-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-24 and 34-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 5/21/2008
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The amendment, filed 5/21/2008, has been received and acknowledged by the Examiner. Claims 1-11 and 25-33 have been canceled. Claims 12-24 and 34-54 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-14, 17-21, 34-39, 42-46 and 50-53 are rejected under 35 U.S.C. 102(b) as being anticipated by Kevin Curran (The Use of Dynamically Reconfigurable Protocol Stacks for Streaming Multimedia to Mobile Devices; 2002 IEEE).

Regarding claims 12, 21, 34, 37, 46 and 50-51, Curran discloses a method of developing the specific protocol useful for delivery of content from a first node of a network to a second node thereof, the method comprising (Figure 2; **from a first node client to a second node Multimedia Server**):

developing a first component adapted to communicate between said first and second nodes (i.e. **Chameleon Middleware allows communication between first and second entities**; Figure 2);

developing a second component adapted to process the content delivered to said second node; and developing a third component adapted to cooperate with at least one of said first and second components to control functions specific to said protocol (p. 949, 2nd ¶; **the application allows data to be retrieved and processed such as audio or video file composition and the sending and receiving ends**).

Regarding claims 13 and 38, Curran discloses the method of Claim 12, wherein said cooperation with at least one of said first and second components comprises accessing said first component to cause at least one message to be sent between said second node and said first node, said at least one message causing at least one corresponding function to be executed (**the communication between a client and a multimedia server is taken at least via the session manager**; Figure 2).

Regarding claims 14 and 39, Curran discloses the method of Claim 12, wherein said act of developing said first component comprises developing a Java DataSource (**the framework of Java 2 Micro Edition can support Java DataSource**, p. 947, 2nd column, lines 28-30).

Regarding claims 17 and 42, Curran discloses the method of Claim 14, wherein said act of developing a first component comprises developing a DataSource component further adapted to setup a session and handshake or negotiate conditional access parameters (**setup a session and handshake are part of the session manager when request for data is being made by a client to a server**; Figure 2).

Regarding claims 18 and 43, Curran disclose the method of Claim 14, wherein said act of developing a first component comprises developing a DataSource

component further adapted to specify the channel on which said content will be delivered (disseminating of media from a source to multiple destination in an oriented way is shown; p. 948 the Chameleon framework).

Regarding claims 19 and 44, Curran disclose the method of Claim 12, wherein said act of developing a first component comprises adapting said first component to provide messaging in support of a plurality of functional modes in cooperation with said third component, said third component being adapted to provide said plurality of functional modes (a plurality of functional modes with a flexible protocol system allows the "dynamic selection, configuration of protocol modules to adapt to changing service properties", p. 948, 2nd column, 1st ¶).

Regarding claims 20 and 45, Curran discloses the method of Claim 12, wherein said act of developing a second component further comprises developing a player component adapted for implementing said second component (it is inherent that a mobile device includes a media player).

Regarding claim 35, Curran discloses the CPE of Claim 21, wherein said CPE is further adapted to: receive said at least one application (Figure 2);

store said at least one application within a storage device of said CPE (Figure 2);
and

run said application to configure said CPE according to a network-specific protocol implemented by said at least one application (Figure 2).

Regarding claim 36, Curran discloses the CPE of Claim 21, wherein said at least one application comprises an application configured with a network-specific protocol

extension and wherein said CPE is further adapted to selectively allow a plurality of applications resident on said CPE to access said extension (i.e. a flexible protocol system allows the "dynamic selection, configuration of protocol modules to adapt to changing service properties", p. 948, 2nd column, 1st ¶).

Regarding claim 54, see the discussion of claim 36.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-16 and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curran in view of Patki et al. (US Pat. 6,944,185), hereinafter Patki.

Regarding claims 15 and 40, while Java framework of Curran could support a Java handler, Curran does not explicitly disclose the method of Claim 14, wherein said act of developing said second component comprises developing a Java MediaHandler. However, in the same field of processing data, Patki discloses Java Media Manager and Handler (Figure 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Java Media Handler of Patki into processing data of Curran to support a wider range of data processing and type.

Regarding claims 16 and 41, Curran further discloses the method of Claim 15, wherein said act of developing said third component comprises developing a controller

adapted to access said first component to cause at least one message to be sent between said second node and said first node, said at least one message causing at least one corresponding function to be executed (p. 948, last 7 lines; exhibiting communication protocol control for execution).

Claims 22-24 and 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curran in view of Logston et al. (US. Pat. 6,941,341), hereinafter Logston.

Regarding claims 22 and 47, Curran discloses the CPE of Claim 21 with java-base middleware, but does not explicitly disclose CPE comprises a DSTB with Java-based middleware, and at least one of said first, second and third components of said at least one software application comprises at least one class and at least one interface disposed within the application directory hierarchy. However, in the same field of endeavor, Logston discloses CPE comprises a DSTB (col. 9, lines 40-45) with Java-based middleware, and at least one of said first, second and third components of said at least one software application comprises at least one class and at least one interface disposed within the application directory hierarchy (Figure 18; server hierarchy). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate disclosures by Logston into Curran with a motivation of able to analyze and determine channel availability and states of each channel in according with active/inactive clients' set-top boxes.

Regarding claims 23 and 48, Logston further discloses the CPE of Claim 22, wherein said CPE is adapted to: receive said at least one application over said network;

and subsequent to said receipt, launch said at least one application to configure at least one path to said at least one component (Figure 10; communication path).

Regarding claims 24 and 49, Lagston further discloses the CPE of Claim 23, wherein said CPE further comprises a plurality of applications, said plurality of other applications being enabled to access said at least one component via at least one of said at least one configured paths (col. 16, lines 45-53).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN-KHANH PHAN whose telephone number is (571)270-3047. The examiner can normally be reached on 4/5/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TKP

/Hung T Vy/
Primary Examiner, Art Unit 2163